

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Suzanne Renee Perry

v.

Civil No. 10-cv-359-JD

Michael J. Astrue, Commissioner,
United States Social Security Administration

O R D E R

Pro se claimant Suzanne Renee Perry has filed an action challenging a decision of the Social Security Administration ("SSA") denying her claim for social security disability insurance. Because Perry is proceeding pro se and in forma pauperis, the matter is before me for preliminary review to determine whether it states any claim upon which relief might be granted. See United States District Court District of New Hampshire Local Rule ("LR") 4.3(d)(1)(B).

Discussion

The Social Security Act, 42 U.S.C. § 405(g), provides for judicial review of a "final decision" of the SSA:

Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow. . . .

The record before me lacks proof that Perry has received a final decision of the Commissioner on her social security disability insurance claim. If the decision about which Perry is complaining is not final, this court would lack jurisdiction over the claim. See Wilson v. Sec'y of Health & Human Servs., 671 F.2d 673, 677 (1st Cir. 1982) (administrative remedies must be exhausted before federal court review is available); see also Califano v. Sanders, 430 U.S. 99, 108 (1977) (judicial review limited to final decision made after hearing). Perry must amend her complaint to show that she has received a final decision from the SSA Commissioner on an application, for the purpose of showing that her appeal is within this court's jurisdiction under 42 U.S.C. § 405(g). See United States District Court, District of New Hampshire, Local Rule 4.3(d)(1)(b)(ii) (magistrate judge may direct plaintiff to amend complaint).

Conclusion

Perry is hereby directed, within 30 days of the date of this Order, to file an amended complaint that shows she has received a final decision of the Commissioner of the Social Security Administration, on her claim for benefits. Perry shall file a copy of the notice of the Commissioner's final decision as an

attachment to that amended complaint. Failure to comply with this Order may result in a dismissal of the complaint.

SO ORDERED.

A handwritten signature in black ink, appearing to be 'L. B. McCafferty', written over a horizontal line.

Landya B. McCafferty
United States Magistrate Judge

Date: August 30, 2010

cc: Suzanne R. Perry, pro se

LBM:nmd